

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TAEA THALE,

Plaintiff,

vs.

APPLE INC.,

Defendant.

Case No.: C-11-03778-YGR

**ORDER STRIKING PLAINTIFF'S SURREPLY  
AND ORDER TO SHOW CAUSE**

Plaintiff Taea Thale has filed a Surreply to Apple's Reply on Its Motion for Partial Summary Judgment ("Surreply"). (Dkt. No. 81.) In filing this Surreply, Plaintiff has violated Civ. L.R. 7-3(d), which explicitly states that "[o]nce a reply is filed, no additional memoranda, papers or letters may be filed without prior Court approval," with certain exceptions. The only permitted filings are (1) an objection to reply evidence and (2) a statement of recent decision. The Surreply contains nothing but pure argument, and does not fall under either exception. In fact, Plaintiff's counsel seems to acknowledge that he has ignored the Local Rules in the introduction of the Surreply.

For these reasons, Plaintiff's Surreply at Dkt. No. 81 is hereby **STRICKEN**, as are the Declaration of John Whitaker in Support of Plaintiff Taea Thale's Opposition to Apple's Motion for Partial Summary Judgment and the exhibits thereto (Dkt. Nos. 81-1-81-3). The Court will not consider Plaintiff's Surreply in rendering its decision.

Plaintiff's counsel, Philip Mann and John Whitaker, are hereby **ORDERED TO SHOW CAUSE** why they should not be sanctioned for failure to follow the explicit Local Rule. A hearing on this Order to Show Cause shall be held on Tuesday, December 18, 2012, coinciding with the hearing on Defendant's Motion for Partial Summary Judgment. Plaintiff's counsel must file a written response to this Order to Show Cause no later than December 14, 2012 explaining counsel's failure to comply

1 with the above rules, as well as certifying that each counsel has personally read and understands the  
2 Civil Local Rules regarding Motion Practice.

3 The Clerk shall strike Dkt. No. 81 from the record.

4 **IT IS SO ORDERED.**

5  
6 Dated: December 12, 2012



7 **YVONNE GONZALEZ ROGERS**  
8 **UNITED STATES DISTRICT COURT JUDGE**